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COMMUNICATION FROM MERCOSUR

Tourism Services

The following communication has been received from the delegations of Argentina, Brazil, Paraguay and Uruguay, with the request that it be circulated to the Members of the Council for Trade in Services.

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1. The States parties to MERCOSUR (Argentina, Brazil, Paraguay and Uruguay) submit this proposal[1] for consideration by Members. Without prejudging the position they will adopt with respect to other negotiating proposals presented in the framework of the Special Session of the Council for Trade in Services, the purpose of this proposal is to promote the liberalisation of this important sector in order to increase developing countries' revenues from tourism services and to contribute to increasing the participation of developing countries in trade in services. Article IV of the General Agreement on Trade in Services ("Increasing Participation of Developing Countries"), states in paragraph 1:

> "The increasing participation of developing country Members in world trade shall be facilitated through negotiated specific commitments, by different Members pursuant to Parts III and IV of this Agreement, relating to:
>
> (c) the liberalisation of market access in sectors and modes of supply of export interest to them."

2. Also, the Guidelines and Procedures for the Negotiations on Trade in Services (S/L/93) adopted on 28 March 2001, state, among other elements, that:

- the negotiations "... shall be conducted ... as a means of promoting ... the development of developing countries" (paragraph 1),

- the negotiations "... shall aim to increase the participation of developing countries in trade in services" (paragraph 2),

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[1] This proposal is not a legal text. It is submitted solely for the purpose of negotiation and does not prejudge the position of MERCOSUR or its States parties regarding the issues raised in it. MERCOSUR and its States parties reserve their rights to modify the contents of this proposal at a later stage.

– "... Due consideration should be given to the needs of small and medium-sized services suppliers, particularly those of developing countries (paragraph 3) and

– "...Special attention shall be given to sectors and modes of supply of export interest to developing countries" (paragraph 5).

I. INTRODUCTION

3. Tourism, broadly defined, is regarded as the world's largest industry and one of the fastest-growing, accounting for over one-third of the value of total world-wide services trade. Highly labour-intensive, it is a major source of employment generation, especially in remote and rural areas.[2]

4. The supply of tourism services is characterized primarily by the cross-border movement of consumers -- i.e. the consumer coming to the supplier, rather than the opposite as is the case with many other services. The industry is highly infrastructure dependent, and relies upon various transport services to deliver clients. Immigration and entry/exit control regulations have a direct influence on the supply of international tourism services.

II. DESCRIPTION OF THE SECTOR

5. Category 9 "Tourism and Travel Related services" of the Services Sectoral Classification List (MTN.GNS/W/120) covers the following four sub-sectors (the first three of which have associated listings under the United Nations' "Provisional Central Product Classification", CPC):

A.	Hotels and restaurants (incl. catering)	CPC 641-643
B.	Travel agencies and tour operators services	CPC 7471
C.	Tourist guides services	CPC 7472
D.	Other.	

6. The World Tourism Organization has expressed that it is not satisfied with the current classification and would like to have it revised in the current negotiations on trade in services. In that respect, the tourism satellite account attempts to measure tourism-related activity by determining what percentage of each industry is accounted for by tourism. In accordance with the Tourism Satellite Account (TSA) adopted by the United Nations Statistical Commission at its 31st session (New York, 29 February - 1 March 2000) "tourism characteristic products" are defined as those that (in the majority of countries) would cease to exist in meaningful quantity or those for which the level of consumption would be significantly reduced in the absence of tourists, and for which statistical information seems possible to obtain.

III. ECONOMIC IMPORTANCE OF THE SECTOR

7. International tourism has a very substantial impact on trade levels, as well as on foreign exchange earnings.

8. Tourism ranks in the top five export categories for 83 per cent of countries, according to the World Tourism Organization, notably in Europe, the Middle East and the Americas, and is the leading source of foreign exchange in many developing countries.

[2] Background Note by the WTO Secretariat S/C/W/51

9. According to the World Travel and Tourism Council, tourism as a whole employed one in ten workers world-wide, making it the world's largest employer.

10. UNCTAD notes that the tourism trade has traditionally been concentrated in developed countries but the share of developing countries has been rising gradually, and now accounts for about one-third of the total.

11. In 2000, world tourism grew by an estimated 7.4 per cent, its highest growth rate in nearly a decade and almost double the increase of 1999. According to preliminary results, the total number of international arrivals reached a record 698 million, nearly 50 million more arrivals than 1999. Also, receipts from international tourism climbed to an estimated US$ 476 billion in 2000, an increase of 4.5 per cent over the previous year.[3]

IV. ANALYSIS OF THE SCHEDULES OF SPECIFIC COMMITMENTS

12. Even though tourism is the sector which has a substantial level of liberalisation in comparison with any other GATS sector, with around 120 WTO Members (counting the European Communities as one) having made commitments, the complete liberalization of the sector has still not been achieved, even at the level of the limited classification W/120.[4]

13. In principle, it should be taken into account that today the WTO has 142 Members. Also, while the Members with tourism commitments have all made commitments under the Hotels and restaurants sub-category, the number of commitments then begins to fall, with less than 100 commitments under Travel agencies and operators, less than 60 commitments under Tourist guides services, and less than 20 commitments under the "Other" sub-category.

14. Of the 120 Members making tourism services commitments, only about one-half have made commitments in three or more sub-sectors.

15. In regard to the level of market access and national treatment provided within Member schedules, commitments by the GATS four modes of supply vary widely for the tourism sector as a whole (see Tables 1 and 2). The percentage of Members placing no restriction on market access is highest for consumption abroad (mode 2) at 49 per cent, followed by lower levels for cross-border supply (mode 1) and commercial presence (mode 3) with minimal levels for the movement of natural persons (mode 4) with only 1 per cent. Regarding national treatment, the pattern is similar, with the percentage of Members having no restrictions on their commitments at 52 per cent for consumption abroad (mode 2) and 11 percent for the presence of natural persons (mode 4).

[3] "Tourism Highlights 2001 (Preliminary results), Source: World Tourism Organization.

[4] "Overview of GATS Disciplines and Commitments", Symposium on Tourism Services, 22-23 February 2001, WTO, Geneva.

Table 1[5]: Number of WTO Members by Mode of Supply - Tourism and Travel-Related Services

Mode of Supply	Market Access		
	Full	**Part**	**No**
1) Cross-border Supply	33	49	30
	29%	44%	27%
2) Consumption Abroad	55	47	10
	49%	42%	9%
3) Commercial Presence	25	86	1
	22%	77%	1%
4) Presence of Natural Persons	1	105	6
	1%	94%	5%
Mode of Supply	**National Treatment**		
	Full	**Part**	**No**
1) Cross-border Supply	37	48	27
	33%	43%	24%
2) Consumption Abroad	58	42	12
	52%	38%	11%
3) Commercial Presence	49	61	2
	44%	54%	2%
4) Presence of Natural Persons	12	90	10
	11%	80%	9%

Table 2[6]: Percentage by Sector and Mode of Supply - Tourism and Travel-Related Services
(Percentages in each Activity)

I. MARKET ACCESS	Cross-border			Consumption abroad		
	Full	**Partial**	**No**	**Full**	**Partial**	**No**
Hotels and Restaurants	31%	23%	46%	54%	37%	9%
Travel Agencies and Tour Operators Services	49%	19%	31%	65%	20%	15%
Tourist Guides Services	56%	7%	37%	78%	13%	9%
Other	38%	31%	31%	38%	54%	8%
I. MARKET ACCESS	**Commercial presence**			**Natural Persons**		
	Full	**Partial**	**No**	**Full**	**Partial**	**No**
Hotels and Restaurants	27%	72%	1%	3%	91%	6%
Travel Agencies and Tour Operators Services	27%	67%	6%	1%	88%	11%
Tourist Guides Services	41%	54%	6%	0%	85%	15%
Other	23%	69%	8%	0%	92%	8%
II. NATIONAL TREATMENT	**Cross-border**			**Consumption abroad**		
	Full	**Partial**	**No**	**Full**	**Partial**	**No**
Hotels and Restaurants	37%	21%	42%	58%	30%	12%
Travel Agencies and Tour Operators Services	55%	15%	30%	70%	13%	17%
Tourist Guides Services	59%	4%	37%	85%	4%	11%
Other	54%	23%	23%	62%	38%	0%
II. NATIONAL TREATMENT	**Commercial presence**			**Natural Persons**		
	Full	**Partial**	**No**	**Full**	**Partial**	**No**
Hotels and Restaurants	51%	46%	3%	11%	79%	10%
Travel Agencies and Tour Operators Services	64%	27%	9%	17%	69%	15%
Tourist Guides Services	76%	15%	9%	13%	67%	20%
Other	54%	46%	0%	23%	69%	8%

Note: Percentages may not add up to 100 due to rounding. Basis of total is listed sectors.

[5] S/C/W/51.
[6] Idem.

V. TRADE RESTRICTIONS[7]

16. Even though the tourism sector –according to the schedules of commitments- is relatively liberal, various barriers still exist, both in the Members which receive and those which generate tourists. Some examples which could be mentioned of restrictions included in the current schedules of specific commitments are those which follow below.

17. In regard to *mode 1*, the limitations appearing in the schedules of commitments are the requirement of establishment/commercial presence in the country (in particular for tour operators), the requirement of residency, etc. Also, it could be mentioned as a restriction the absence of bindings due to a perceived lack of feasibility; however, the development of Internet and of e-commerce has brought this into question, as these tools are increasingly used to make online bookings, enquiries and marketing.

18. *Mode 2* is essential for tourism services. Even though in mode 2 the tourism sector is particularly liberal, some situations of absence of bindings and some restrictions or limitations still exist in the schedules.

19. With respect to measures relating to *establishment and investment*, commercial presence is required in some schedules for the provision of services. This restriction applies mainly to mode 1, but is also present for other modes of supply. This condition sometimes applies in addition to the requirement that the service provider must be a company established in his home jurisdiction as well as incorporating locally under specific types of legal entities (e.g. joint-ventures with national persons). Also, commercial presence can be subject to foreign capital limitations.

20. *Licensing, authorisation or permission* can be preliminary requirements for the supply of services. These requirements can be applied on a discretionary basis (when are based on an economic needs tests) and they can also depend on other conditions (residency, citizenship, local incorporation, etc.).

21. *Economic needs tests*, that appear in a number of schedules of commitments, are required to open bars or restaurants or for the supply of services related to travel agencies and tour operators. Economic needs tests apply predominantly in mode 3. This restriction can be applied alone, or it can be among the criteria for the granting of a licence. The conditions for its application are sometimes specified, but in most cases the application of economic needs tests lacks transparency.

22. *Requirements relating to nationality, citizenship and residency* also exist and these requirements sometimes apply as a condition for the granting of a licence. They constitute a major limitation for tourist guides.

23. In relation to *barriers to the presence of natural persons*, *mode 4* is usually unbound except for some cases.

24. Finally, there are other examples of limitations which appear in the schedules of specific commitments, particularly with respect to modes 3 and 4.

VI. PROPOSAL

25. Without prejudice to their positive attitude towards the continuing analysis in the WTO of tourism characteristic products, and without prejudging the position they will adopt on this during the current negotiations, the States parties to MERCOSUR (Argentina, Brazil, Paraguay and Uruguay) propose,

[7] TD/TC/WP(2000)10/REV1, OECD

as a first step towards the full liberalization of tourism sector in the four categories identified in the Sectoral Classification W/120, the following:

(i) *that WTO Members make specific commitments without limitations in the tourism services sector in the subsectors included in the Sectoral Classification W/120:*

W/120	Description	CPC
A.	Hotels and restaurants (incl. Catering)	641-643
B.	Travel agencies and tour operators services	7471
C.	Tourist guides services	7472
D.	Other	

and

(ii) *that WTO Members eliminate the restrictions to market access and national treatment in tourism services, making commitments "without limitations" (by entering "none" in the market access and national treatment columns) in the above-mentioned subsectors.*